



Filed: 2/3/2005

09400HB0255ham001

LRB094 04960 RLC 36789 a

1 AMENDMENT TO HOUSE BILL 255

2 AMENDMENT NO. _____. Amend House Bill 255 on page 2, by
3 inserting below line 10 the following:

4 "Section 55. The Unified Code of Corrections is amended by
5 changing Sections 3-6-2 and 5-5-3 as follows:

6 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

7 Sec. 3-6-2. Institutions and Facility Administration.

8 (a) Each institution and facility of the Department shall
9 be administered by a chief administrative officer appointed by
10 the Director. A chief administrative officer shall be
11 responsible for all persons assigned to the institution or
12 facility. The chief administrative officer shall administer
13 the programs of the Department for the custody and treatment of
14 such persons.

15 (b) The chief administrative officer shall have such
16 assistants as the Department may assign.

17 (c) The Director or Assistant Director shall have the
18 emergency powers to temporarily transfer individuals without
19 formal procedures to any State, county, municipal or regional
20 correctional or detention institution or facility in the State,
21 subject to the acceptance of such receiving institution or
22 facility, or to designate any reasonably secure place in the
23 State as such an institution or facility and to make transfers
24 thereto. However, transfers made under emergency powers shall

1 be reviewed as soon as practicable under Article 8, and shall
2 be subject to Section 5-905 of the Juvenile Court Act of 1987.
3 This Section shall not apply to transfers to the Department of
4 Human Services which are provided for under Section 3-8-5 or
5 Section 3-10-5.

6 (d) The Department shall provide educational programs for
7 all committed persons so that all persons have an opportunity
8 to attain the achievement level equivalent to the completion of
9 the twelfth grade in the public school system in this State.
10 Other higher levels of attainment shall be encouraged and
11 professional instruction shall be maintained wherever
12 possible. The Department may establish programs of mandatory
13 education and may establish rules and regulations for the
14 administration of such programs. A person committed to the
15 Department who, during the period of his or her incarceration,
16 participates in an educational program provided by or through
17 the Department and through that program is awarded or earns the
18 number of hours of credit required for the award of an
19 associate, baccalaureate, or higher degree from a community
20 college, college, or university located in Illinois shall
21 reimburse the State, through the Department, for the costs
22 incurred by the State in providing that person during his or
23 her incarceration with the education that qualifies him or her
24 for the award of that degree. The costs for which reimbursement
25 is required under this subsection shall be determined and
26 computed by the Department under rules and regulations that it
27 shall establish for that purpose. However, interest at the rate
28 of 6% per annum shall be charged on the balance of those costs
29 from time to time remaining unpaid, from the date of the
30 person's parole, mandatory supervised release, or release
31 constituting a final termination of his or her commitment to
32 the Department until paid.

33 (e) A person committed to the Department who becomes in
34 need of medical or surgical treatment but is incapable of

1 giving consent thereto shall receive such medical or surgical
2 treatment by the chief administrative officer consenting on the
3 person's behalf. Before the chief administrative officer
4 consents, he or she shall obtain the advice of one or more
5 physicians licensed to practice medicine in all its branches in
6 this State. If such physician or physicians advise:

7 (1) that immediate medical or surgical treatment is
8 required relative to a condition threatening to cause
9 death, damage or impairment to bodily functions, or
10 disfigurement; and

11 (2) that the person is not capable of giving consent to
12 such treatment; the chief administrative officer may give
13 consent for such medical or surgical treatment, and such
14 consent shall be deemed to be the consent of the person for
15 all purposes, including, but not limited to, the authority
16 of a physician to give such treatment.

17 (e-5) If a physician providing medical care to a committed
18 person on behalf of the Department advises the chief
19 administrative officer that the committed person's mental or
20 physical health has deteriorated as a result of the cessation
21 of ingestion of food or liquid to the point where medical or
22 surgical treatment is required to prevent death, damage, or
23 impairment to bodily functions, the chief administrative
24 officer may authorize such medical or surgical treatment.

25 (f) In the event that the person requires medical care and
26 treatment at a place other than the institution or facility,
27 the person may be removed therefrom under conditions prescribed
28 by the Department. The Department shall require the committed
29 person receiving medical or dental services on a non-emergency
30 basis to pay a \$2 co-payment to the Department for each visit
31 for medical or dental services. The amount of each co-payment
32 shall be deducted from the committed person's individual
33 account. A committed person who has a chronic illness, as
34 defined by Department rules and regulations, shall be exempt

1 from the \$2 co-payment for treatment of the chronic illness. A
2 committed person shall not be subject to a \$2 co-payment for
3 follow-up visits ordered by a physician, who is employed by, or
4 contracts with, the Department. A committed person who is
5 indigent is exempt from the \$2 co-payment and is entitled to
6 receive medical or dental services on the same basis as a
7 committed person who is financially able to afford the
8 co-payment. Notwithstanding any other provision in this
9 subsection (f) to the contrary, any person committed to any
10 facility operated by the Juvenile Division, as set forth in
11 subsection (b) of Section 3-2-5 of this Code, is exempt from
12 the co-payment requirement for the duration of confinement in
13 those facilities.

14 (g) Any person having sole custody of a child at the time
15 of commitment or any woman giving birth to a child after her
16 commitment, may arrange through the Department of Children and
17 Family Services for suitable placement of the child outside of
18 the Department of Corrections. The Director of the Department
19 of Corrections may determine that there are special reasons why
20 the child should continue in the custody of the mother until
21 the child is 6 years old.

22 (h) The Department may provide Family Responsibility
23 Services which may consist of, but not be limited to the
24 following:

- 25 (1) family advocacy counseling;
26 (2) parent self-help group;
27 (3) parenting skills training;
28 (4) parent and child overnight program;
29 (5) parent and child reunification counseling, either
30 separately or together, preceding the inmate's release;
31 and
32 (6) a prerelease reunification staffing involving the
33 family advocate, the inmate and the child's counselor, or
34 both and the inmate.

1 (i) Upon admission of an inmate to an institution or
2 facility of the Department and prior to release of the inmate,
3 he or she shall be given a physical examination and upon
4 admission and prior ~~Prior~~ to the release of any inmate ~~who has~~
5 ~~a documented history of intravenous drug use, and upon the~~
6 ~~receipt of that inmate's written informed consent,~~ the
7 Department shall provide for the testing of such inmate for
8 infection with human immunodeficiency virus (HIV) and any other
9 identified causative agent of acquired immunodeficiency
10 syndrome (AIDS). The testing provided under this subsection
11 shall consist of an enzyme-linked immunosorbent assay (ELISA)
12 test or such other test as may be approved by the Illinois
13 Department of Public Health. If the test result is positive,
14 the Western Blot Assay or more reliable confirmatory test shall
15 be administered. All inmates tested in accordance with the
16 provisions of this subsection shall be provided with pre-test
17 and post-test counseling. ~~Notwithstanding any provision of~~
18 ~~this subsection to the contrary, the Department shall not be~~
19 ~~required to conduct the testing and counseling required by this~~
20 ~~subsection unless sufficient funds to cover all costs of such~~
21 ~~testing and counseling are appropriated for that purpose by the~~
22 ~~General Assembly.~~

23 (j) Any person convicted of a sex offense as defined in the
24 Sex Offender Management Board Act shall be required to receive
25 a sex offender evaluation prior to release into the community
26 from the Department of Corrections. The sex offender evaluation
27 shall be conducted in conformance with the standards and
28 guidelines developed under the Sex Offender Management Board
29 Act and by an evaluator approved by the Board.

30 (k) Any minor committed to the Department of
31 Corrections-Juvenile Division for a sex offense as defined by
32 the Sex Offender Management Board Act shall be required to
33 undergo sex offender treatment by a treatment provider approved
34 by the Board and conducted in conformance with the Sex Offender

1 Management Board Act.

2 (Source: P.A. 92-292, eff. 8-9-01; 93-616, eff. 1-1-04; 93-928,
3 eff. 1-1-05.)

4 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
5 Sec. 5-5-3. Disposition.

6 (a) Except as provided in Section 11-501 of the Illinois
7 Vehicle Code, every person convicted of an offense shall be
8 sentenced as provided in this Section.

9 (b) The following options shall be appropriate
10 dispositions, alone or in combination, for all felonies and
11 misdemeanors other than those identified in subsection (c) of
12 this Section:

13 (1) A period of probation.

14 (2) A term of periodic imprisonment.

15 (3) A term of conditional discharge.

16 (4) A term of imprisonment.

17 (5) An order directing the offender to clean up and
18 repair the damage, if the offender was convicted under
19 paragraph (h) of Section 21-1 of the Criminal Code of 1961
20 (now repealed).

21 (6) A fine.

22 (7) An order directing the offender to make restitution
23 to the victim under Section 5-5-6 of this Code.

24 (8) A sentence of participation in a county impact
25 incarceration program under Section 5-8-1.2 of this Code.

26 (9) A term of imprisonment in combination with a term
27 of probation when the offender has been admitted into a
28 drug court program under Section 20 of the Drug Court
29 Treatment Act.

30 Neither a fine nor restitution shall be the sole
31 disposition for a felony and either or both may be imposed only
32 in conjunction with another disposition.

33 (c) (1) When a defendant is found guilty of first degree

1 murder the State may either seek a sentence of imprisonment
2 under Section 5-8-1 of this Code, or where appropriate seek
3 a sentence of death under Section 9-1 of the Criminal Code
4 of 1961.

5 (2) A period of probation, a term of periodic
6 imprisonment or conditional discharge shall not be imposed
7 for the following offenses. The court shall sentence the
8 offender to not less than the minimum term of imprisonment
9 set forth in this Code for the following offenses, and may
10 order a fine or restitution or both in conjunction with
11 such term of imprisonment:

12 (A) First degree murder where the death penalty is
13 not imposed.

14 (B) Attempted first degree murder.

15 (C) A Class X felony.

16 (D) A violation of Section 401.1 or 407 of the
17 Illinois Controlled Substances Act, or a violation of
18 subdivision (c) (1) or (c) (2) of Section 401 of that Act
19 which relates to more than 5 grams of a substance
20 containing heroin or cocaine or an analog thereof.

21 (E) A violation of Section 5.1 or 9 of the Cannabis
22 Control Act.

23 (F) A Class 2 or greater felony if the offender had
24 been convicted of a Class 2 or greater felony within 10
25 years of the date on which the offender committed the
26 offense for which he or she is being sentenced, except
27 as otherwise provided in Section 40-10 of the
28 Alcoholism and Other Drug Abuse and Dependency Act.

29 (G) Residential burglary, except as otherwise
30 provided in Section 40-10 of the Alcoholism and Other
31 Drug Abuse and Dependency Act.

32 (H) Criminal sexual assault.

33 (I) Aggravated battery of a senior citizen.

34 (J) A forcible felony if the offense was related to

1 the activities of an organized gang.

2 Before July 1, 1994, for the purposes of this
3 paragraph, "organized gang" means an association of 5
4 or more persons, with an established hierarchy, that
5 encourages members of the association to perpetrate
6 crimes or provides support to the members of the
7 association who do commit crimes.

8 Beginning July 1, 1994, for the purposes of this
9 paragraph, "organized gang" has the meaning ascribed
10 to it in Section 10 of the Illinois Streetgang
11 Terrorism Omnibus Prevention Act.

12 (K) Vehicular hijacking.

13 (L) A second or subsequent conviction for the
14 offense of hate crime when the underlying offense upon
15 which the hate crime is based is felony aggravated
16 assault or felony mob action.

17 (M) A second or subsequent conviction for the
18 offense of institutional vandalism if the damage to the
19 property exceeds \$300.

20 (N) A Class 3 felony violation of paragraph (1) of
21 subsection (a) of Section 2 of the Firearm Owners
22 Identification Card Act.

23 (O) A violation of Section 12-6.1 of the Criminal
24 Code of 1961.

25 (P) A violation of paragraph (1), (2), (3), (4),
26 (5), or (7) of subsection (a) of Section 11-20.1 of the
27 Criminal Code of 1961.

28 (Q) A violation of Section 20-1.2 or 20-1.3 of the
29 Criminal Code of 1961.

30 (R) A violation of Section 24-3A of the Criminal
31 Code of 1961.

32 (S) (Blank).

33 (T) A second or subsequent violation of paragraph
34 (6.6) of subsection (a), subsection (c-5), or

1 subsection (d-5) of Section 401 of the Illinois
2 Controlled Substances Act.

3 (3) (Blank).

4 (4) A minimum term of imprisonment of not less than 10
5 consecutive days or 30 days of community service shall be
6 imposed for a violation of paragraph (c) of Section 6-303
7 of the Illinois Vehicle Code.

8 (4.1) (Blank).

9 (4.2) Except as provided in paragraph (4.3) of this
10 subsection (c), a minimum of 100 hours of community service
11 shall be imposed for a second violation of Section 6-303 of
12 the Illinois Vehicle Code.

13 (4.3) A minimum term of imprisonment of 30 days or 300
14 hours of community service, as determined by the court,
15 shall be imposed for a second violation of subsection (c)
16 of Section 6-303 of the Illinois Vehicle Code.

17 (4.4) Except as provided in paragraph (4.5) and
18 paragraph (4.6) of this subsection (c), a minimum term of
19 imprisonment of 30 days or 300 hours of community service,
20 as determined by the court, shall be imposed for a third or
21 subsequent violation of Section 6-303 of the Illinois
22 Vehicle Code.

23 (4.5) A minimum term of imprisonment of 30 days shall
24 be imposed for a third violation of subsection (c) of
25 Section 6-303 of the Illinois Vehicle Code.

26 (4.6) A minimum term of imprisonment of 180 days shall
27 be imposed for a fourth or subsequent violation of
28 subsection (c) of Section 6-303 of the Illinois Vehicle
29 Code.

30 (5) The court may sentence an offender convicted of a
31 business offense or a petty offense or a corporation or
32 unincorporated association convicted of any offense to:

33 (A) a period of conditional discharge;

34 (B) a fine;

1 (C) make restitution to the victim under Section
2 5-5-6 of this Code.

3 (5.1) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), and except as
5 provided in paragraph (5.2) or (5.3), a person convicted of
6 violating subsection (c) of Section 11-907 of the Illinois
7 Vehicle Code shall have his or her driver's license,
8 permit, or privileges suspended for at least 90 days but
9 not more than one year, if the violation resulted in damage
10 to the property of another person.

11 (5.2) In addition to any penalties imposed under
12 paragraph (5) of this subsection (c), and except as
13 provided in paragraph (5.3), a person convicted of
14 violating subsection (c) of Section 11-907 of the Illinois
15 Vehicle Code shall have his or her driver's license,
16 permit, or privileges suspended for at least 180 days but
17 not more than 2 years, if the violation resulted in injury
18 to another person.

19 (5.3) In addition to any penalties imposed under
20 paragraph (5) of this subsection (c), a person convicted of
21 violating subsection (c) of Section 11-907 of the Illinois
22 Vehicle Code shall have his or her driver's license,
23 permit, or privileges suspended for 2 years, if the
24 violation resulted in the death of another person.

25 (6) In no case shall an offender be eligible for a
26 disposition of probation or conditional discharge for a
27 Class 1 felony committed while he was serving a term of
28 probation or conditional discharge for a felony.

29 (7) When a defendant is adjudged a habitual criminal
30 under Article 33B of the Criminal Code of 1961, the court
31 shall sentence the defendant to a term of natural life
32 imprisonment.

33 (8) When a defendant, over the age of 21 years, is
34 convicted of a Class 1 or Class 2 felony, after having

1 twice been convicted in any state or federal court of an
2 offense that contains the same elements as an offense now
3 classified in Illinois as a Class 2 or greater Class felony
4 and such charges are separately brought and tried and arise
5 out of different series of acts, such defendant shall be
6 sentenced as a Class X offender. This paragraph shall not
7 apply unless (1) the first felony was committed after the
8 effective date of this amendatory Act of 1977; and (2) the
9 second felony was committed after conviction on the first;
10 and (3) the third felony was committed after conviction on
11 the second. A person sentenced as a Class X offender under
12 this paragraph is not eligible to apply for treatment as a
13 condition of probation as provided by Section 40-10 of the
14 Alcoholism and Other Drug Abuse and Dependency Act.

15 (9) A defendant convicted of a second or subsequent
16 offense of ritualized abuse of a child may be sentenced to
17 a term of natural life imprisonment.

18 (10) (Blank).

19 (11) The court shall impose a minimum fine of \$1,000
20 for a first offense and \$2,000 for a second or subsequent
21 offense upon a person convicted of or placed on supervision
22 for battery when the individual harmed was a sports
23 official or coach at any level of competition and the act
24 causing harm to the sports official or coach occurred
25 within an athletic facility or within the immediate
26 vicinity of the athletic facility at which the sports
27 official or coach was an active participant of the athletic
28 contest held at the athletic facility. For the purposes of
29 this paragraph (11), "sports official" means a person at an
30 athletic contest who enforces the rules of the contest,
31 such as an umpire or referee; "athletic facility" means an
32 indoor or outdoor playing field or recreational area where
33 sports activities are conducted; and "coach" means a person
34 recognized as a coach by the sanctioning authority that

1 conducted the sporting event.

2 (12) ~~(11)~~ A person may not receive a disposition of
3 court supervision for a violation of Section 5-16 of the
4 Boat Registration and Safety Act if that person has
5 previously received a disposition of court supervision for
6 a violation of that Section.

7 (d) In any case in which a sentence originally imposed is
8 vacated, the case shall be remanded to the trial court. The
9 trial court shall hold a hearing under Section 5-4-1 of the
10 Unified Code of Corrections which may include evidence of the
11 defendant's life, moral character and occupation during the
12 time since the original sentence was passed. The trial court
13 shall then impose sentence upon the defendant. The trial court
14 may impose any sentence which could have been imposed at the
15 original trial subject to Section 5-5-4 of the Unified Code of
16 Corrections. If a sentence is vacated on appeal or on
17 collateral attack due to the failure of the trier of fact at
18 trial to determine beyond a reasonable doubt the existence of a
19 fact (other than a prior conviction) necessary to increase the
20 punishment for the offense beyond the statutory maximum
21 otherwise applicable, either the defendant may be re-sentenced
22 to a term within the range otherwise provided or, if the State
23 files notice of its intention to again seek the extended
24 sentence, the defendant shall be afforded a new trial.

25 (e) In cases where prosecution for aggravated criminal
26 sexual abuse under Section 12-16 of the Criminal Code of 1961
27 results in conviction of a defendant who was a family member of
28 the victim at the time of the commission of the offense, the
29 court shall consider the safety and welfare of the victim and
30 may impose a sentence of probation only where:

31 (1) the court finds (A) or (B) or both are appropriate:

32 (A) the defendant is willing to undergo a court
33 approved counseling program for a minimum duration of 2
34 years; or

1 (B) the defendant is willing to participate in a
2 court approved plan including but not limited to the
3 defendant's:

4 (i) removal from the household;

5 (ii) restricted contact with the victim;

6 (iii) continued financial support of the
7 family;

8 (iv) restitution for harm done to the victim;

9 and

10 (v) compliance with any other measures that
11 the court may deem appropriate; and

12 (2) the court orders the defendant to pay for the
13 victim's counseling services, to the extent that the court
14 finds, after considering the defendant's income and
15 assets, that the defendant is financially capable of paying
16 for such services, if the victim was under 18 years of age
17 at the time the offense was committed and requires
18 counseling as a result of the offense.

19 Probation may be revoked or modified pursuant to Section
20 5-6-4; except where the court determines at the hearing that
21 the defendant violated a condition of his or her probation
22 restricting contact with the victim or other family members or
23 commits another offense with the victim or other family
24 members, the court shall revoke the defendant's probation and
25 impose a term of imprisonment.

26 For the purposes of this Section, "family member" and
27 "victim" shall have the meanings ascribed to them in Section
28 12-12 of the Criminal Code of 1961.

29 (f) This Article shall not deprive a court in other
30 proceedings to order a forfeiture of property, to suspend or
31 cancel a license, to remove a person from office, or to impose
32 any other civil penalty.

33 (g) Whenever a defendant is convicted of an offense under
34 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,

1 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
2 of the Criminal Code of 1961, the defendant shall undergo
3 medical testing to determine whether the defendant has any
4 sexually transmissible disease, including a test for infection
5 with human immunodeficiency virus (HIV) or any other identified
6 causative agent of acquired immunodeficiency syndrome (AIDS).
7 Any such medical test shall be performed only by appropriately
8 licensed medical practitioners and may include an analysis of
9 any bodily fluids as well as an examination of the defendant's
10 person. Except as otherwise provided by law, the results of
11 such test shall be kept strictly confidential by all medical
12 personnel involved in the testing and must be personally
13 delivered in a sealed envelope to the judge of the court in
14 which the conviction was entered for the judge's inspection in
15 camera. Acting in accordance with the best interests of the
16 victim and the public, the judge shall have the discretion to
17 determine to whom, if anyone, the results of the testing may be
18 revealed. The court shall notify the defendant of the test
19 results. The court shall also notify the victim if requested by
20 the victim, and if the victim is under the age of 15 and if
21 requested by the victim's parents or legal guardian, the court
22 shall notify the victim's parents or legal guardian of the test
23 results. The court shall provide information on the
24 availability of HIV testing and counseling at Department of
25 Public Health facilities to all parties to whom the results of
26 the testing are revealed and shall direct the State's Attorney
27 to provide the information to the victim when possible. A
28 State's Attorney may petition the court to obtain the results
29 of any HIV test administered under this Section, and the court
30 shall grant the disclosure if the State's Attorney shows it is
31 relevant in order to prosecute a charge of criminal
32 transmission of HIV under Section 12-16.2 of the Criminal Code
33 of 1961 against the defendant. The court shall order that the
34 cost of any such test shall be paid by the county and may be

1 taxed as costs against the convicted defendant.

2 (g-5) When an inmate is tested for an airborne communicable
3 disease, as determined by the Illinois Department of Public
4 Health including but not limited to tuberculosis, the results
5 of the test shall be personally delivered by the warden or his
6 or her designee in a sealed envelope to the judge of the court
7 in which the inmate must appear for the judge's inspection in
8 camera if requested by the judge. Acting in accordance with the
9 best interests of those in the courtroom, the judge shall have
10 the discretion to determine what if any precautions need to be
11 taken to prevent transmission of the disease in the courtroom.

12 (h) Whenever a defendant is convicted of an offense under
13 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
14 defendant shall undergo medical testing to determine whether
15 the defendant has been exposed to human immunodeficiency virus
16 (HIV) or any other identified causative agent of acquired
17 immunodeficiency syndrome (AIDS). Except as otherwise provided
18 by law, the results of such test shall be kept strictly
19 confidential by all medical personnel involved in the testing
20 and must be personally delivered in a sealed envelope to the
21 judge of the court in which the conviction was entered for the
22 judge's inspection in camera. Acting in accordance with the
23 best interests of the public, the judge shall have the
24 discretion to determine to whom, if anyone, the results of the
25 testing may be revealed. The court shall notify the defendant
26 of a positive test showing an infection with the human
27 immunodeficiency virus (HIV). The court shall provide
28 information on the availability of HIV testing and counseling
29 at Department of Public Health facilities to all parties to
30 whom the results of the testing are revealed and shall direct
31 the State's Attorney to provide the information to the victim
32 when possible. A State's Attorney may petition the court to
33 obtain the results of any HIV test administered under this
34 Section, and the court shall grant the disclosure if the

1 State's Attorney shows it is relevant in order to prosecute a
2 charge of criminal transmission of HIV under Section 12-16.2 of
3 the Criminal Code of 1961 against the defendant. The court
4 shall order that the cost of any such test shall be paid by the
5 county and may be taxed as costs against the convicted
6 defendant.

7 (i) All fines and penalties imposed under this Section for
8 any violation of Chapters 3, 4, 6, and 11 of the Illinois
9 Vehicle Code, or a similar provision of a local ordinance, and
10 any violation of the Child Passenger Protection Act, or a
11 similar provision of a local ordinance, shall be collected and
12 disbursed by the circuit clerk as provided under Section 27.5
13 of the Clerks of Courts Act.

14 (j) In cases when prosecution for any violation of Section
15 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
16 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
17 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
18 Code of 1961, any violation of the Illinois Controlled
19 Substances Act, or any violation of the Cannabis Control Act
20 results in conviction, a disposition of court supervision, or
21 an order of probation granted under Section 10 of the Cannabis
22 Control Act or Section 410 of the Illinois Controlled Substance
23 Act of a defendant, the court shall determine whether the
24 defendant is employed by a facility or center as defined under
25 the Child Care Act of 1969, a public or private elementary or
26 secondary school, or otherwise works with children under 18
27 years of age on a daily basis. When a defendant is so employed,
28 the court shall order the Clerk of the Court to send a copy of
29 the judgment of conviction or order of supervision or probation
30 to the defendant's employer by certified mail. If the employer
31 of the defendant is a school, the Clerk of the Court shall
32 direct the mailing of a copy of the judgment of conviction or
33 order of supervision or probation to the appropriate regional
34 superintendent of schools. The regional superintendent of

1 schools shall notify the State Board of Education of any
2 notification under this subsection.

3 (j-5) A defendant at least 17 years of age who is convicted
4 of a felony and who has not been previously convicted of a
5 misdemeanor or felony and who is sentenced to a term of
6 imprisonment in the Illinois Department of Corrections shall as
7 a condition of his or her sentence be required by the court to
8 attend educational courses designed to prepare the defendant
9 for a high school diploma and to work toward a high school
10 diploma or to work toward passing the high school level Test of
11 General Educational Development (GED) or to work toward
12 completing a vocational training program offered by the
13 Department of Corrections. The costs of the educational courses
14 shall be paid by the Department. If a defendant fails to
15 complete the educational training required by his or her
16 sentence during the term of incarceration, the Prisoner Review
17 Board shall, as a condition of mandatory supervised release,
18 require the defendant, ~~at his or her own expense,~~ to pursue a
19 course of study toward a high school diploma or passage of the
20 GED test. The costs of the educational courses shall be paid by
21 the Department. The Prisoner Review Board shall revoke the
22 mandatory supervised release of a defendant who wilfully fails
23 to comply with this subsection (j-5) upon his or her release
24 from confinement in a penal institution while serving a
25 mandatory supervised release term; ~~however, the inability of~~
26 ~~the defendant after making a good faith effort to obtain~~
27 ~~financial aid or pay for the educational training shall not be~~
28 ~~deemed a wilful failure to comply.~~ The Prisoner Review Board
29 shall recommit the defendant whose mandatory supervised
30 release term has been revoked under this subsection (j-5) as
31 provided in Section 3-3-9. This subsection (j-5) does not apply
32 to a defendant who has a high school diploma or has
33 successfully passed the GED test. This subsection (j-5) does
34 not apply to a defendant who is determined by the court to be

1 developmentally disabled or otherwise mentally incapable of
2 completing the educational or vocational program.

3 (k) A court may not impose a sentence or disposition for a
4 felony or misdemeanor that requires the defendant to be
5 implanted or injected with or to use any form of birth control.

6 (l) (A) Except as provided in paragraph (C) of subsection
7 (1), whenever a defendant, who is an alien as defined by
8 the Immigration and Nationality Act, is convicted of any
9 felony or misdemeanor offense, the court after sentencing
10 the defendant may, upon motion of the State's Attorney,
11 hold sentence in abeyance and remand the defendant to the
12 custody of the Attorney General of the United States or his
13 or her designated agent to be deported when:

14 (1) a final order of deportation has been issued
15 against the defendant pursuant to proceedings under
16 the Immigration and Nationality Act, and

17 (2) the deportation of the defendant would not
18 deprecate the seriousness of the defendant's conduct
19 and would not be inconsistent with the ends of justice.

20 Otherwise, the defendant shall be sentenced as
21 provided in this Chapter V.

22 (B) If the defendant has already been sentenced for a
23 felony or misdemeanor offense, or has been placed on
24 probation under Section 10 of the Cannabis Control Act or
25 Section 410 of the Illinois Controlled Substances Act, the
26 court may, upon motion of the State's Attorney to suspend
27 the sentence imposed, commit the defendant to the custody
28 of the Attorney General of the United States or his or her
29 designated agent when:

30 (1) a final order of deportation has been issued
31 against the defendant pursuant to proceedings under
32 the Immigration and Nationality Act, and

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct

1 and would not be inconsistent with the ends of justice.

2 (C) This subsection (1) does not apply to offenders who
3 are subject to the provisions of paragraph (2) of
4 subsection (a) of Section 3-6-3.

5 (D) Upon motion of the State's Attorney, if a defendant
6 sentenced under this Section returns to the jurisdiction of
7 the United States, the defendant shall be recommitted to
8 the custody of the county from which he or she was
9 sentenced. Thereafter, the defendant shall be brought
10 before the sentencing court, which may impose any sentence
11 that was available under Section 5-5-3 at the time of
12 initial sentencing. In addition, the defendant shall not be
13 eligible for additional good conduct credit for
14 meritorious service as provided under Section 3-6-6.

15 (m) A person convicted of criminal defacement of property
16 under Section 21-1.3 of the Criminal Code of 1961, in which the
17 property damage exceeds \$300 and the property damaged is a
18 school building, shall be ordered to perform community service
19 that may include cleanup, removal, or painting over the
20 defacement.

21 (n) The court may sentence a person convicted of a
22 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
23 Code of 1961 (i) to an impact incarceration program if the
24 person is otherwise eligible for that program under Section
25 5-8-1.1, (ii) to community service, or (iii) if the person is
26 an addict or alcoholic, as defined in the Alcoholism and Other
27 Drug Abuse and Dependency Act, to a substance or alcohol abuse
28 program licensed under that Act.

29 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
30 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
31 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
32 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
33 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
34 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,

1 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)".